



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** T. W. Hollopeter & Associates  
**File:** B-227804  
**Date:** July 30, 1987

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### **DIGEST**

1. Where a request for best and final offers is accompanied by a solicitation amendment changing the contemplated contract to a firm, fixed-price contract rather than a time-and-materials one, protest of such change filed after the closing date for receipt of best and final offers is untimely.

2. In a negotiated procurement, the award of a firm, fixed-price contract to the offeror with a technically superior but higher-priced proposal is proper so long as the award is reasonable and consistent with the solicitation's evaluation criteria.

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### **DECISION**

T. W. Hollopeter & Associates protests the contract award to Process Management Institute (PMI) under request for proposals (RFP) No. N00604-87-R-A001, issued by the Department of the Navy for training and consulting services at Pearl Harbor Naval Shipyard. Hollopeter contends that the Navy improperly amended the RFP to change the proposed contract from a time-and-materials contract to a firm, fixed-price contract; that the evaluation criteria used were inappropriate for a fixed-price contract, and that the contract should have been awarded to Hollopeter based on its lower-priced proposal.

We dismiss the protest in part and deny it in part.

We will not consider Hollopeter's protest, filed on June 2, 1987, of the change in contract type, or the related contention that the evaluation criteria were inappropriate for a firm, fixed-price contract. The change in contract type was effected in an RFP amendment sent to Hollopeter and the other two offerors in the competitive range, which also requested best and final offers by May 7, 1987. Our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1986), require

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that a protest of an alleged solicitation impropriety that did not exist in the solicitation as issued initially, but subsequently was incorporated into it, be filed before the next closing date for receipt of proposals following the incorporation. That date here was May 7--Hollopeter, in fact, submitted a timely revised proposal--so that the protest, filed only after Hollopeter learned of the proposed award to PMI, is untimely.

The protester also contends that Hollopeter, rather than PMI, should have been awarded the contract based on its significantly lower proposed price.

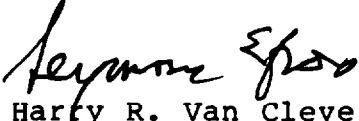
The RFP advised that technical factors were significantly more important than price. In evaluating proposals, the Navy reports, the technical and price points assigned were 70 and 30, respectively. PMI received 66 out of 70 possible technical points based on the Navy's assessment that PMI possessed superior knowledge and skills; Hollopeter, on the other hand, received only 47 technical points (49.89 as normalized). Based on its \$140,000 price proposal, however, Hollopeter received 30 out of a possible 30 price points, while PMI received 13.14 points for its \$319,585 price proposal. PMI's overall score was 83.14 points and Hollopeter's score was 79.89 points. (The third offeror's price was slightly higher than PMI's, and that firm was rated second on technical factors.) The contracting officer determined that PMI had submitted the most advantageous offer in terms of price and technical superiority, and awarded the contract to PMI.

In a negotiated procurement, there is no requirement that award be made on the basis of the lowest proposed cost. Cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the established evaluation factors. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 C.P.D. ¶ 325. Thus, where the solicitation indicates that technical considerations are more important to the procuring agency than cost considerations, we have upheld award to firms submitting superior technical proposals even though the proposed costs are higher than those proposed in lower-rated technical proposals. See CACI, Inc.-Federal, B-225444, Jan. 13, 1987, 87-1 C.P.D. ¶ 53.

Hollopeter does not take issue with the evaluation, arguing only that its low-priced offer entitled it to the award. The solicitation, however, clearly advised potential offerors that technical factors were significantly more important than price, and the assignment of 70 and 30 points to technical factors and price, respectively, was consistent

with the RFP's evaluation scheme. Since PMI submitted a technically superior proposal and received the highest point score among the three offerors in the competitive range, we have no basis upon which to question the contract award to that firm.

The protest is dismissed in part and denied in part.

*for*   
Harry R. Van Cleve  
General Counsel